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**VIA EFILING**

April 2, 2008

Mr. Charles L.A. Terreni  
Chief Clerk/Administrator  
South Carolina Public Service Commission  
101 Executive Center Dr., Suite 100  
Columbia, SC 29210

Re: **Rulemaking Regarding Prepaid Telecommunications Local Services -  
Notice of Drafting Filed with the South Carolina Legislative Council  
Docket No. 2007-400-C**

Dear Mr. Terreni:

On February 8, 2008, the Commission issued proposed regulation 103-607 and allowed interested persons to provide comments on the proposed regulation by April 2, 2008.

The Office of Regulatory Staff ("ORS") appreciates the opportunity to comment and plans to participate in the April 29, 2008 hearing.

Very truly yours,

Nanette S. Edwards

**IN RE:**

**Rulemaking Regarding Prepaid  
Telecommunications Local Services**

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**COMMENTS**

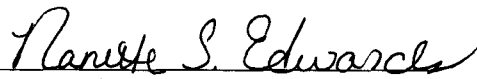
ORS recommends the following proposed changes:

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- (5) By requiring the performance bond or other security approved by the Commission prior to beginning operations in South Carolina, the regulation is limited to new entrants;
- (6) In determining the amount for an escrow account, ORS recommends using the average monthly residential service charges multiplied by the average number of customers and the amount of the escrow account should be no less than \$100,000. Rather than monthly reports, ORS recommends quarterly reports; and
- (7) ORS recommends including language that identifies the circumstances that would trigger revocation of the bond or other security approved by the Commission.

The edits proposed by ORS are intended to clarify the regulation without overburdening new entrants seeking to offer services in South Carolina and yet provide some protection to the residential class of customers. In reviewing similar statutes and regulations of other state agencies, ORS found that at least one state agency has the authority to revoke the bond or other security in order to secure the payment of any monetary sanction imposed in a Commission enforcement proceeding. ORS recommends that the Commission consider the circumstances under which it would propose to revoke the security.

Respectfully submitted on this 2<sup>nd</sup> day of April, 2008.

  
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## APPENDIX A

### 103-607 Regulation Governing Prepaid Local Telecommunications Carriers Services and Bonds or Other Security Mechanisms

The purpose of this regulation is to protect the concerns of the consuming and using public by ensuring telecommunications carriers offering prepaid services have committed the necessary resources to fulfill their obligations to their customers.

This regulation applies to telecommunications carriers who provide residential prepaid telecommunications ~~local-exchange~~ services (requiring advance payment from customers prior to providing telecommunications service) and who have not invested at least five million dollars in telecommunications facilities in the State of South Carolina. Advance payments include, but are not limited to, prepaid non-recurring connection and service fees, deposits, prepaid monthly service, and prepaid calling cards. ~~The Commission may waive this requirement upon petition by the carrier if the carrier provides evidence of unbundled network element (UNE) leases during the prior calendar year exceeding \$500,000 or other evidence of financial stability as deemed appropriate by the Commission.~~

If a carrier requires advance payments prepayment for services and does not meet the minimum investment threshold, the carrier is required to maintain a bond or other security mechanism filed with the Commission and a copy provided to the Office of Regulatory Staff (ORS). The Commission shall determine the type and the amount of bond or other security mechanism to be filed and maintained by the carrier with the Commission. The Commission may order the carrier to file a performance bond, establish an escrow account, or post an irrevocable letter of credit or certificate of deposit. The amount of the bond or other security mechanism may be adjusted at anytime based on the carrier's verified market presence for the preceding twelve-month period. The ORS shall review the annual reports and determine whether the present bond accurately reflects the carrier's market presence. Based on the annual report, the ORS shall make recommendations for increasing or decreasing the amount of the bond or other security mechanism. The amount bond or security mechanism shall be no less than the Commission's minimum amount requirements. Evidence of a performance bond or other security mechanism approved by the Commission must be filed with the Commission and a copy provided to ORS annually.

a. Performance Bond. Performance bonds must be issued by an A-grade insurer having an office in the State of South Carolina and must be posted with the Commission prior to its operations within South Carolina offering prepaid service. In determining the amount of the bond, the Commission may consider the average number of customers served by the carrier multiplied by the average retail price for the prepaid service. However, the amount of the bond shall be no less than \$100,000.

b. Escrow Account. An escrow account shall not be a part of the carrier's standard business account. Further, the escrow agent shall not be employed by or have any business affiliation with the carrier. The Commission may require the account to equal the proposed average monthly residential service charge multiplied by the average number of customers served by the carrier ~~or an amount equal to the annual prepayments collected~~ as of July 1<sup>st</sup> or December 31<sup>st</sup>. The amount of the escrow account shall be no less than \$100,000. The Commission may require the filing of quarterly monthly reports demonstrating showing escrow account activity.

c. Irrevocable Letter of Credit. An irrevocable letter of credit shall be issued by a financial institution authorized to do business in South Carolina. The amount of the irrevocable letter of credit shall be determined by the Commission; however, the amount of the letter of credit shall be no less than \$100,000. An updated irrevocable letter of credit shall be filed with the Commission annually.

d. Certificate of Deposit. The certificate of deposit shall be issued by a financial institution authorized to do business in South Carolina and shall be no less than ~~\$50~~100,000. In determining the amount of the certificate of deposit, the Commission may use, at a minimum, the following criteria: number of customers and average retail residential charge price for prepaid service, ~~and financial resources of the carrier.~~

#### **Forfeiture of Bond or Other Security Mechanism**

The Commission, after notice and hearing, may order all or part of any bond or other security forfeited upon finding that the telecommunications carrier has abandoned service to customers who have paid for those services in advance.